

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

HAMDY A. ELWAKIL ET. AL.

SERIAL NO.: 10/521,500

FILED: AUGUST 20, 2003

371(c) DATE: JANUARY 11, 2005

FOR: DECORATIVE LAMINATED SAFETY GLASS

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GROUP ART UNIT: 1774

EXAMINER: SHEWAREGED

CONFIRMATION NO. 9254

REQUEST FOR CORRECTED CLAIM FOR PRIORITY
AND CORRECTED FILING RECEIPTPROVISIONAL PETITION FOR ACCEPTANCE OF
CLAIM FOR PRIORITY UNDER 37 CFR 1.78(6)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request that the subject application be provided benefit of the filing dates of both U.S. Provisional Application No. 60/404,700, filed August 20, 2002, and to U.S. Provisional Application Serial No 60/483,515, filed June 26, 2003.

If applicants are not granted the claim for priority to both provisional applications based upon the request, then applicants hereby Petition for acceptance of the claim for priority under 37 CFR 1.78(6).

REQUEST FOR CORRECTED CLAIM FOR PRIORITY
AND CORRECTED FILING RECEIPT

Applicants hereby request that the subject application be provided benefit of the filing dates of both U.S. Provisional Application No. 60/404,700, filed August 20, 2002, and to U.S. Provisional Application Serial No 60/483,515, filed June 26, 2003. Presently the Filing Receipt only recognizes applicant's claim to U.S. Provisional Application No. 60/404,700, filed August 20, 2002.

The subject application is a 371 of PCT/US03/26193, filed August 20, 2003.

The first sentence of the subject patent application reads as follows:

"This application claims priority under 35 USC §119 to U.S. Provisional Application No. 60/404,700, filed August 20, 2002, and to U.S. Provisional Application Serial No 60/483,515, filed June 26, 2003."

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The Filing Receipt probably only lists the a claim for priority to on provisional application since the Declaration and Power of Attorney filed when the U.S. national stage application was filed only lists a claim to priority to U.S. Provisional Application No. 60/404,700. Applicants, however, are entitled to claim priority from both provisional applications since the first sentence of the patent application includes a correct claim for priority.

Applicants' claim for priority is presented under 35 USC 119(e), which states:

"An application for patent filed under ... section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under ... section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application. No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application."

The rules applicable to this situation are described in 37 CFR 1.78(5), which states:

"(i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

"(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as

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provided in paragraph(a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:

...
(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title.

According to MPEP 1893.03(c) III. , entitled "BENEFIT CLAIM UNDER 35 U.S.C. 119(e), OR 120 AND 365(c)":

"The national stage application must contain a reference to the provisional application (either in an application data sheet (37 CFR 1.76) or in the first sentence(s) of the specification), identifying it as a provisional application, and including the provisional application number (series code and serial number). The required reference to the earlier provisional application must be submitted within the time period provided by 37 CFR 1.78(a)(5)(ii)."

All of the cited portion refer to presenting a proper claim for priority in the specification of the application. Given this, then applicants submit that they presented a proper claim for priority and respectfully request that the patent application be accorded priority to both provisional applications and that the Filing Receipt and Patent Office records be updated accordingly.

Submitted herewith is an executed Declaration and Power of Attorney with the proper claim for priority.

**PROVISIONAL PETITION FOR ACCEPTANCE OF
CLAIM FOR PRIORITY UNDER 37 CFR 1.78(6)**

If applicants are not granted the claim for priority to both provisional applications based upon the request, then applicants hereby Petition for acceptance of the claim for priority under 37 CFR 1.78(6).

Rule 37 CFR 1.78(6) states:

(6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(i) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;

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- (ii) The surcharge set forth in § 1.17(t); and
- (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Reference Required By 35 U.S.C. 119(e)

The first sentence of the subject patent application includes the reference required by 35 U.S.C. 119(e), since it reads as follows:

"This application claims priority under 35 USC §119 to U.S. Provisional Application No. 60/404,700, filed August 20, 2002, and to U.S. Provisional Application Serial No 60/483,515, filed June 26, 2003."

A corrected Declaration and Power of Attorney is submitted herewith.

Fee

If the Petition is required and a fee is required for entry of the Petition, the PTO is hereby authorized to charge the fee set forth in 37 C.F.R. § 1.17(t) to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company). Please charge any additional fees due and credit any overpayment or fee charged inappropriately to that deposit account.

Required Statement

Applicants and the undersigned hereby state that that the entire delay between the date the claims was due under 37 CFR 1.78 (a)(5) and the date hereof (the date the claim was made) was unintentional.

In support of this statement, applicants point out that the patent application contains the appropriate claim for priority to the two provisional applications. The error in the Declaration and Power of Attorney was first notice by the undersigned while studying the application after receipt of the Office Action dated August 11, 2006.

Respectfully submitted,



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Dated: November 10, 2006